

SENATE JOURNAL

OF THE

IDAHO LEGISLATURE

FIRST REGULAR SESSION
FIFTY-SEVENTH LEGISLATURE

THIRTY-SIXTH LEGISLATIVE DAY
MONDAY, FEBRUARY 10, 2003

Senate Chamber

President Risch called the Senate to order at 11 a.m.

Roll call showed all members present except Senator Andreason, absent and formally excused by the Chair; and Senators Cameron, Noble, and Stennett, absent and excused.

Prayer was offered by Chaplain Gene Arnold.

The Pledge of Allegiance was led by Jared Larsen, Page.

The Senate advanced to the Third Order of Business.

Reading and Correction of the Journal

Senators Cameron and Stennett were recorded present at this order of business.

The JUDICIARY AND RULES Committee reports that the Senate Journal of the proceedings of February 7, 2003, was read and approved as corrected.

DARRINGTON, Chairman

There being no objection, the report was adopted and ordered filed in the office of the Secretary of the Senate.

On request by Senator Davis, granted by unanimous consent, the Senate advanced to the Fifth Order of Business.

Petitions, Resolutions, and Memorials

SCR 102

BY STATE AFFAIRS COMMITTEE A CONCURRENT RESOLUTION

STATING FINDINGS OF THE LEGISLATURE AND AUTHORIZING THE LEGISLATIVE COUNCIL TO APPOINT A COMMITTEE TO UNDERTAKE AND COMPLETE A STUDY OF TAXATION MATTERS REGARDING THE SALES AND USE TAX.

Be It Resolved by the Legislature of the State of Idaho:

WHEREAS, when the sales and use tax was first enacted in 1965, the rate was three percent and there were seventeen exemptions to the tax; and

WHEREAS, today the sales and use tax rate is five percent and the number of exemptions to the tax total forty different Idaho Code sections; and

WHEREAS, for many years the state's citizens enjoyed a balanced tax system which included components of the sales tax, individual income tax and corporate income tax; and

WHEREAS, because of a variety of factors, changes in state tax policy as well as federal changes in tax policy, the tax structure in place today has become seriously out of balance; and

WHEREAS, this imbalance has caused a fiscal crisis of the highest order for the state; and

WHEREAS, it is apparent that short-term or emergency reactions to the fiscal crisis result in ill-considered, piecemeal and counterproductive tax measures; and

WHEREAS, many sales tax exemptions have been enacted by the Legislature over the past three decades and these need to be examined to determine their relevance in today's global economy; and

WHEREAS, it is the desire of this Legislature that a tax structure should encourage economic development, and not hinder it.

NOW, THEREFORE, BE IT RESOLVED by the members of the First Regular Session of the Fifty-seventh Idaho Legislature, the Senate and the House of Representatives concurring therein, that the Legislative Council is authorized to appoint a committee to undertake and complete a study of all aspects of the state's sales and use tax structure, with the goal of the committee's recommendation being to develop a strategy to implement a sales and use tax structure over the succeeding years that is fair and balanced in its application and effect, meets the revenue needs of the state, and encourages and assists economic development. Further, the Committee is to analyze all of the sales tax exemptions in statute, which analysis shall include a statement of the public purpose of the original enactment of the tax exemption, the amount of money the tax exemption represents, the affected taxpayers that would pay additional taxes if the exemption were to be repealed or amended and the public benefits or detriments that would result if the exemption were to be repealed or amended. The Legislative Council shall determine the number of legislators and membership from each house appointed to the committee and shall authorize the committee to receive input, advice and assistance from interested and affected parties who are not members of the Legislature.

BE IT FURTHER RESOLVED that the committee shall report its findings, recommendations and proposed legislation, if any, to the Second Regular Session of the Fifty-seventh Idaho Legislature.

SCR 103

BY RESOURCES AND ENVIRONMENT COMMITTEE A CONCURRENT RESOLUTION

STATING LEGISLATIVE FINDINGS AND AUTHORIZING THE LEGISLATIVE COUNCIL TO APPOINT A COMMITTEE TO UNDERTAKE AND COMPLETE A STUDY OF NATURAL RESOURCE ISSUES.

Be It Resolved by the Legislature of the State of Idaho:

WHEREAS, numerous water and natural resource related issues are working their way through various forums and are all subjects that require legislative scrutiny; and

WHEREAS, these issues include the effort to negotiate a settlement of the Nez Perce tribal claims in the Snake River Basin Adjudication, the development of the biological opinion by the National Marine Fisheries Service for salmon recovery, the limited and conditional authorization for the use of 427,000 acre feet of Idaho water for salmon recovery, evolving water rights issues connected to electric utility restructuring, and issues related to the impact of drought conditions in Idaho; and

WHEREAS, these issues will all have a major impact upon the future of Idaho and the quality of life our citizens enjoy.

NOW, THEREFORE, BE IT RESOLVED by the members of the First Regular Session of the Fifty-seventh Idaho Legislature, the Senate and the House of Representatives concurring therein, that the Legislative Council is authorized to appoint a committee to undertake and complete a study of various natural resource issues including, but not limited to, the effort to negotiate a settlement of the Nez Perce tribal claims in the Snake River Basin Adjudication, the development of the biological opinion by the National Marine Fisheries Service for salmon recovery, the limited and conditional authorization for the use of 427,000 acre feet of Idaho water for salmon recovery, evolving water rights issues connected to electric utility restructuring, and issues related to the impact of drought conditions in Idaho. The committee shall consist of ten legislators with five from the Senate and five from the House of Representatives. The Legislative Council shall authorize the committee to receive input, advice and assistance from interested and affected parties who are not members of the Legislature.

BE IT FURTHER RESOLVED that the cochairmen of this committee shall consult and coordinate with cochairmen of the committee on Electric Utility Restructuring, if appointed.

BE IT FURTHER RESOLVED that nonlegislative members of the committee may be appointed by the cochairmen of the committee who are appointed by the Legislative Council. Nonlegislative members of the committee shall not be reimbursed from legislative funds for per diem, mileage or other expenses and shall not have voting privileges regarding the committee's recommendations or proposed legislation.

BE IT FURTHER RESOLVED that the committee shall make a progress report to the Second Regular Session of the Fifty-seventh Idaho Legislature and shall make a report detailing its findings, recommendations and proposed legislation, if any, to the First Regular Session of the Fifty-eighth Idaho Legislature.

SCR 102 and **SCR 103** were introduced, read at length, and referred to the Judiciary and Rules Committee for printing.

The Senate advanced to the Sixth Order of Business.

Reports of Standing Committees

Senator Noble was recorded present at this order of business.

February 10, 2003

The JUDICIARY AND RULES Committee reports that **S 1078**, **S 1079**, **S 1080**, **S 1081**, **S 1082**, **S 1083**, **S 1084**, **S 1085**, **S 1086**, **S 1087**, **S 1088**, and **S 1089** have been correctly printed.

DARRINGTON, Chairman

S 1078, **S 1079**, **S 1080**, **S 1081**, and **S 1082** were referred to the Transportation Committee.

S 1083, **S 1084**, **S 1085**, **S 1086**, and **S 1087** were referred to the Commerce and Human Resources Committee.

S 1088 and **S 1089** were referred to the Agricultural Affairs Committee.

February 7, 2003

The JUDICIARY AND RULES Committee reports out **H 50** and **H 85** with the recommendation that they do pass.

DARRINGTON, Chairman

H 50 and **H 85** were filed for second reading.

February 7, 2003

The HEALTH AND WELFARE Committee reports it has had under consideration the Gubernatorial appointments listed below and the Committee recommends that said appointments be confirmed by the Senate:

Quane Kenyon to the Idaho State Board of Health and Welfare, term to expire January 7, 2007;

Richard T. Roberge to the Idaho State Board of Health and Welfare, term to expire January 7, 2007;

Dr. Jack T. Riggs to the Idaho State Board of Health and Welfare, term to expire January 7, 2007.

BRANDT, Chairman

The Gubernatorial appointments were referred to the Tenth Order of Business, Motions and Resolutions, and ordered held at the Secretary's desk for one legislative day.

February 7, 2003

The STATE AFFAIRS Committee reports it has had under consideration the Gubernatorial appointment listed below and the Committee recommends that said appointment be confirmed by the Senate:

Trent Clark to the Idaho State Building Authority, term to expire January 1, 2008.

SORENSEN, Chairman

The Gubernatorial appointment was referred to the Tenth Order of Business, Motions and Resolutions, and ordered held at the Secretary's desk for one legislative day.

February 7, 2003

The STATE AFFAIRS Committee reports out **HCR 9** with the recommendation that it do pass.

SORENSEN, Chairman

HCR 9 was referred to the Tenth Order of Business, Motions and Resolutions, and ordered held at the Secretary's desk for one legislative day.

On request by Senator Davis, granted by unanimous consent, the Senate advanced to the Ninth Order of Business.

Messages from the House

February 7, 2003

Mr. President:

I transmit herewith **H 113** and **H 108** which have passed the House.

JUKER, Chief Clerk

H 113 and **H 108** were filed for first reading.

February 7, 2003

Mr. President:

I transmit herewith Enrolled **H 31** and **H 6** for the signature of the President.

JUKER, Chief Clerk

The President signed Enrolled **H 31** and **H 6** and ordered them returned to the House.

On request by Senator Davis, granted by unanimous consent, the Senate advanced to the Eleventh Order of Business.

Introduction, First Reading, and Reference of Bills, House Petitions, Resolutions, and Memorials

S 1090 **BY COMMERCE AND HUMAN RESOURCES** **COMMITTEE**

AN ACT

RELATING TO PORT DISTRICTS; AMENDING SECTION 70-1101, IDAHO CODE, TO PROVIDE THAT PORT DISTRICTS MAY BE ESTABLISHED IN ANY COUNTY AND MAY INVOLVE A PORT WITH WATER-BASED OR LAND ONLY FACILITIES; AMENDING SECTION 70-1102, IDAHO CODE, TO REVISE PROVISIONS RELATING TO THE FORMATION OF A DISTRICT AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 70-1107, IDAHO CODE, TO REVISE THE TERMS TO BE EXPRESSED IN PORT DISTRICT PROPOSITION BALLOTS; AMENDING SECTION 70-1505, IDAHO CODE, TO REVISE PROVISIONS RELATING TO RATES AND CHARGES; AMENDING SECTIONS 70-1511, 70-1601, 70-1603, 70-1610 AND 70-1617, IDAHO CODE, TO PROVIDE FOR COMPREHENSIVE PLANS OF HARBOR IMPROVEMENT AND/OR PORT DEVELOPMENT; AMENDING SECTION 70-1619, IDAHO CODE, TO PROVIDE FOR COMPREHENSIVE PLANS OF HARBOR IMPROVEMENT AND/OR PORT DEVELOPMENT AND TO MAKE

TECHNICAL CORRECTIONS; AMENDING SECTION 70-1904, IDAHO CODE, TO PROVIDE FOR COMPREHENSIVE PLANS OF HARBOR IMPROVEMENT AND/OR PORT DEVELOPMENT; AND AMENDING SECTION 70-1908, IDAHO CODE, TO PROVIDE FOR THE SALE, CONVEYANCE OR EXCHANGE OF CERTAIN PROPERTY IF IN FURTHERANCE OF ANY ONE OR MORE OF A PORT DISTRICT'S GENERAL PLANS OF HARBOR IMPROVEMENT, PORT DEVELOPMENT AND/OR ITS PLAN OF INDUSTRIAL DEVELOPMENT AND TO MAKE A TECHNICAL CORRECTION.

S 1091 **BY EDUCATION COMMITTEE** **AN ACT**

RELATING TO INSTRUCTIONAL HOURS IN A SCHOOL YEAR; AMENDING SECTION 33-512, IDAHO CODE, TO AUTHORIZE A REDUCTION IN THE NUMBER OF HOURS OF INSTRUCTIONAL TIME REQUIRED WHEN A DISTRIBUTION FROM THE PUBLIC SCHOOL INCOME FUND IS DEFICIENT AND TO MAKE A TECHNICAL CORRECTION; AND DECLARING AN EMERGENCY.

S 1092 **BY EDUCATION COMMITTEE** **AN ACT**

RELATING TO PROPRIETARY SCHOOLS; AMENDING SECTION 33-2402, IDAHO CODE, TO EXEMPT FROM THE DEFINITION OF "PROPRIETARY SCHOOL," A NONPROFIT INSTITUTION OWNED, CONTROLLED, AND OPERATED AND MAINTAINED BY A CHURCH, RELIGIOUS DENOMINATION OR RELIGIOUS ORGANIZATION COMPRISED OF MULTI-DENOMINATIONAL MEMBERS OF THE SAME RELIGION, LAWFULLY OPERATING AS A NONPROFIT CORPORATION IN THIS STATE, IF CERTAIN FACTORS OCCUR.

S 1093 **BY JUDICIARY AND RULES COMMITTEE** **AN ACT**

RELATING TO THE UNIFORM INTERSTATE ENFORCEMENT OF DOMESTIC VIOLENCE PROTECTION ORDERS ACT; AMENDING SECTION 39-6306A, IDAHO CODE, TO REMOVE LANGUAGE PROHIBITING TRIBUNALS OF THIS STATE FROM ENFORCING SUPPORT PROVISIONS OF FOREIGN PROTECTION ORDERS AND TO PROVIDE THAT THE VALIDITY OF AN EX PARTE FOREIGN PROTECTION ORDER DEPENDS UPON A RESPONDENT HAVING HAD OR HAVING IN THE FUTURE AN OPPORTUNITY TO BE HEARD IN A MANNER CONSISTENT WITH DUE PROCESS RIGHTS.

S 1094 **BY JUDICIARY AND RULES COMMITTEE** **AN ACT**

RELATING TO THE JUVENILE CORRECTIONS ACT; AMENDING SECTION 20-524, IDAHO CODE, TO CLARIFY PROVISIONS REQUIRING SUPPORT OF JUVENILES, TO AUTHORIZE THE DEPARTMENT OF JUVENILE CORRECTIONS AND COUNTIES TO PURSUE ENFORCEMENT OF ORDERS, TO REMOVE LANGUAGE REFERENCING CHILD SUPPORT ORDERS AND TO REMOVE LANGUAGE RELATING TO THE VALIDITY OF CERTAIN SUPPORT ORDERS OR DECREES.

S 1095**BY JUDICIARY AND RULES COMMITTEE**
AN ACT

RELATING TO THE JUVENILE CORRECTIONS ACT; AMENDING SECTION 20-502, IDAHO CODE, TO DEFINE "STATUS OFFENSE" AND "STATUS OFFENDER" AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 20-516, IDAHO CODE, TO REFERENCE A CODE SECTION PROVIDING FOR THE APPREHENSION, DETENTION AND RELEASE OF STATUS OFFENDERS, TO PROVIDE AN EXCEPTION FOR JUVENILE STATUS OFFENDERS, TO REVISE PROVISIONS RELATING TO PLACEMENTS OF JUVENILES AND TO PROVIDE CLARIFYING LANGUAGE; AMENDING CHAPTER 5, TITLE 20, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 20-516A, IDAHO CODE, TO PROVIDE FOR THE APPREHENSION AND DETENTION OF STATUS OFFENDERS; AMENDING SECTION 20-521, IDAHO CODE, TO PROVIDE THAT THE COURT MAY UTILIZE CERTAIN DISPOSITIONAL ALTERNATIVES AND TO PROVIDE THAT CERTAIN JUVENILES SHALL NOT BE PLACED IN COUNTY JAILS OR COMMITTED TO THE IDAHO DEPARTMENT OF JUVENILE CORRECTIONS; AND AMENDING SECTION 20-549, IDAHO CODE, TO PROVIDE THAT JUVENILES WHO VIOLATE CURFEW MAY BE PLACED IN JUVENILE DETENTION CENTERS ONLY UNDER CERTAIN CONDITIONS.

S 1096**BY JUDICIARY AND RULES COMMITTEE**
AN ACT

RELATING TO THE DEPARTMENT OF JUVENILE CORRECTIONS; AMENDING SECTION 9-340B, IDAHO CODE, TO PROVIDE THAT RECORDS OF THE CUSTODY REVIEW BOARD OF THE IDAHO DEPARTMENT OF JUVENILE CORRECTIONS SHALL BE EXEMPT FROM DISCLOSURE; AMENDING CHAPTER 5, TITLE 20, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 20-533A, IDAHO CODE, TO PROVIDE THAT MEETINGS OF THE CUSTODY REVIEW BOARD SHALL BE HELD IN ACCORDANCE WITH OPEN MEETING LAWS, TO PROVIDE EXCEPTIONS, TO PROVIDE FOR THE CONFIDENTIALITY OF CERTAIN RECORDS PRODUCED BY THE BOARD, TO PROVIDE A PENALTY FOR IMPROPER DISCLOSURE OF CONFIDENTIAL RECORDS AND TO LIMIT APPLICABILITY OF THE SECTION; AND AMENDING SECTION 67-2345, IDAHO CODE, TO AUTHORIZE EXECUTIVE SESSIONS OF THE CUSTODY REVIEW BOARD.

S 1097**BY STATE AFFAIRS COMMITTEE**
AN ACT

RELATING TO THE IDAHO REAL ESTATE BROKERAGE REPRESENTATION ACT; AMENDING SECTION 54-2087, IDAHO CODE, TO DELETE LANGUAGE REQUIRING THAT BROKERAGES AND THEIR LICENSEES CONDUCT CERTAIN INVESTIGATIONS, TO PROVIDE THAT UPON WRITTEN REQUEST BY A CLIENT OR SELLER BROKERAGES AND THEIR LICENSEES SHALL REQUEST CERTAIN PROOF RELATING TO A PROSPECTIVE BUYER'S FINANCIAL ABILITY TO PURCHASE REAL PROPERTY AND TO PROVIDE THAT UNLESS OTHERWISE AGREED TO IN WRITING BROKERAGES AND THEIR LICENSEES

OWE NO DUTY TO CONDUCT INDEPENDENT INSPECTIONS OF PROPERTY, TO INDEPENDENTLY VERIFY CERTAIN STATEMENTS OR REPRESENTATIONS OR TO CONDUCT INDEPENDENT INVESTIGATIONS RELATING TO A PARTY'S FINANCIAL ABILITY; AND AMENDING SECTION 54-2093, IDAHO CODE, TO REVISE PROVISIONS RELATING TO THE VICARIOUS LIABILITY OF CLIENTS, LICENSEES AND BROKERAGES.

S 1098**BY RESOURCES AND ENVIRONMENT COMMITTEE**
AN ACT

RELATING TO FISH AND GAME LICENSES; AMENDING CHAPTER 3, TITLE 36, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 36-311, IDAHO CODE, TO PROVIDE THAT THE SOCIAL SECURITY NUMBERS OF LICENSEES AND APPLICANTS FOR LICENSES SHALL NOT BE DISPLAYED ON ANY POINT OF SALE DEVICE.

S 1099**BY RESOURCES AND ENVIRONMENT COMMITTEE**
AN ACT

RELATING TO THE ILLEGAL DIVERSION OR USE OF WATER; AMENDING SECTION 42-351, IDAHO CODE, TO SPECIFY CONDUCT THAT CONSTITUTES AN ILLEGAL DIVERSION OR USE OF WATER AND TO AUTHORIZE THE DIRECTOR TO TAKE CERTAIN ACTIONS UPON INVESTIGATION OF AVAILABLE INFORMATION; AND AMENDING SECTION 42-1701B, IDAHO CODE, TO REVISE CONTENT REQUIREMENTS FOR NOTICES OF VIOLATION, TO REVISE CIVIL PENALTY PROVISIONS FOR SPECIFIED ILLEGAL DIVERSION OR USE OF WATER, TO PROVIDE THAT DESIGNATED ACTION DOES NOT AFFORD RELIEF FROM CERTAIN CIVIL LIABILITY AND TO PROVIDE CORRECT REFERENCES.

S 1100**BY RESOURCES AND ENVIRONMENT COMMITTEE**
AN ACT

RELATING TO WATER RIGHTS; AMENDING SECTION 42-223, IDAHO CODE, TO CLARIFY INTENT OF THE LEGISLATURE NOT TO DIMINISH OR IMPAIR CERTAIN STATUTORY OR COMMON LAW DEFENSES TO FORFEITURE AND TO PROVIDE THAT WATER CONSERVATION PRACTICES DO NOT SUBJECT WATER RIGHTS TO FORFEITURE; AMENDING CHAPTER 2, TITLE 42, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 42-250, IDAHO CODE, TO RECOGNIZE AND DEFINE WATER CONSERVATION PRACTICES AND CONSERVED WATER; AND DECLARING AN EMERGENCY.

S 1101**BY RESOURCES AND ENVIRONMENT COMMITTEE**
AN ACT

RELATING TO DESCRIPTIONS OF WATER RIGHTS; AMENDING SECTION 42-1411, IDAHO CODE, TO PROVIDE THAT AN OBJECTION TO A DIGITAL BOUNDARY DESCRIPTION OF A WATER RIGHT IN THE SNAKE RIVER BASIN ADJUDICATION SHALL NOT BE REQUIRED TO USE SIMILAR TECHNOLOGY-BASED DESCRIPTIONS; AND AMENDING SECTION 42-1413, IDAHO CODE, TO PROVIDE

THAT THE FILING OF A DECREE WITH THE COUNTY RECORDER SHALL NOT SUPERSEDE THE LEGAL DESCRIPTION OF IRRIGATION DISTRICT BOUNDARIES RECORDED AS PROVIDED IN CHAPTER 7, TITLE 43, IDAHO CODE.

S 1102

BY HEALTH AND WELFARE COMMITTEE

AN ACT

RELATING TO HOSPITAL LICENSES AND INSPECTION; AMENDING SECTION 39-1392a, IDAHO CODE, TO DEFINE TERMS AND TO MAKE TECHNICAL AND GRAMMATICAL CHANGES; AMENDING SECTION 39-1392b, IDAHO CODE, TO REVISE PROVISIONS RELATING TO CONFIDENTIAL AND PRIVILEGED RECORDS; AMENDING SECTION 39-1392c, IDAHO CODE, TO REVISE PROVISIONS RELATING TO CIVIL LIABILITY IMMUNITY; AMENDING SECTION 39-1392d, IDAHO CODE, TO REVISE PROVISIONS RELATING TO PEER REVIEW RECORDS OF HEALTH CARE ORGANIZATIONS AND TO PROVIDE REFERENCES TO PATIENT CARE RECORDS; REPEALING SECTION 39-1393, IDAHO CODE, RELATING TO NOTIFICATION OF DISCIPLINARY ACTION IMPOSED UPON A PHYSICIAN; AMENDING CHAPTER 13, TITLE 39, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 39-1393, IDAHO CODE, TO PROVIDE FOR NOTIFICATION OF PROFESSIONAL REVIEW ACTION IMPOSED UPON A PHYSICIAN; AND AMENDING SECTION 54-1818, IDAHO CODE, TO PROVIDE A CORRECT CODE REFERENCE AND TO PROVIDE THAT NO PHYSICIAN OR SURGEON SHALL REPORT CERTAIN INFORMATION RELATING TO PEER REVIEW RECORDS AND TO PROVIDE THAT HEALTH CARE ORGANIZATIONS SHALL NOT BE RELIEVED OF CERTAIN NOTIFICATION OBLIGATIONS.

S 1090, S 1091, S 1092, S 1093, S 1094, S 1095, S 1096, S 1097, S 1098, S 1099, S 1100, S 1101, and S 1102 were introduced, read the first time at length, and referred to the Judiciary and Rules Committee for printing.

H 113, by State Affairs Committee, was introduced, read the first time at length, and referred to the Local Government and Taxation Committee.

H 108, by Agricultural Affairs Committee, was introduced, read the first time at length, and referred to the Agricultural Affairs Committee.

The Senate advanced to the Twelfth Order of Business.

Second Reading of Bills

S 1011, by Transportation Committee, was read the second time at length and filed for third reading.

The Senate advanced to the Thirteenth Order of Business.

Third Reading of Bills

H 91, having been held, was read the third time at length, section by section, and placed before the Senate for final consideration. Senator Richardson arose as sponsor of the bill and opened the debate. The question being, "Shall the bill pass?"

Roll call resulted as follows:

AYES--Bailey, Brandt, Bunderson, Burkett, Burtenshaw, Calabretta, Cameron, Compton, Darrington, Davis, Gannon, Geddes, Goedde, Hill, Kennedy, Keough, Little, Lodge, Malepeai, Marley, McKenzie, McWilliams, Noble, Noh, Pearce, Richardson, Schroeder, Sorensen, Stegner, Sweet, Werk, Williams. Total - 32.

NAYS--None.

Absent and excused--Andreason, Ingram, Stennett. Total - 3.

Total - 35.

Whereupon the President declared **H 91** passed, title was approved, and the bill ordered returned to the House.

H 33 was read the third time at length, section by section, and placed before the Senate for final consideration. Senator Goedde arose as sponsor of the bill and opened the debate. The question being, "Shall the bill pass?"

Roll call resulted as follows:

AYES--Bailey, Brandt, Bunderson, Burkett, Burtenshaw, Calabretta, Cameron, Compton, Darrington, Davis, Gannon, Geddes, Goedde, Hill, Ingram, Kennedy, Keough, Little, Lodge, Malepeai, Marley, McKenzie, McWilliams, Noble, Noh, Pearce, Richardson, Schroeder, Sorensen, Stegner, Stennett, Sweet, Werk, Williams. Total - 34.

NAYS--None.

Absent and excused--Andreason. Total - 1.

Total - 35.

Whereupon the President declared **H 33** passed, title was approved, and the bill ordered returned to the House.

S 1029 was read the third time at length, section by section, and placed before the Senate for final consideration. Senator Lodge arose as sponsor of the bill and opened the debate. The question being, "Shall the bill pass?"

On request by Senator Davis, granted by unanimous consent, the Statement of Purpose to **S 1029** was revised pursuant to Joint Rule 18.

Roll call resulted as follows:

AYES--Bailey, Brandt, Bunderson, Burkett, Burtenshaw, Cameron, Compton, Darrington, Davis, Gannon, Geddes, Goedde, Hill, Ingram, Kennedy, Little, Lodge, Malepeai, Marley, McKenzie, McWilliams, Noble, Noh, Pearce, Richardson, Schroeder, Sorensen, Stegner, Stennett, Sweet, Williams. Total - 31.

NAYS--Calabretta, Keough, Werk. Total - 3.

Absent and excused--Andreason. Total - 1.

Total - 35.

Whereupon the President declared **S 1029** passed, title was approved, and the bill ordered transmitted to the House.

S 1030 was read the third time at length, section by section, and placed before the Senate for final consideration. Senator Richardson arose as sponsor of the bill and opened the debate. The question being, "Shall the bill pass?"

Roll call resulted as follows:

AYES--Bailey, Brandt, Bunderson, Burkett, Burtenshaw, Calabretta, Cameron, Compton, Darrington, Davis, Gannon, Geddes, Goedde, Hill, Ingram, Kennedy, Keough, Little, Lodge, Malepeai, Marley, McKenzie, McWilliams, Noble, Noh, Pearce, Richardson, Schroeder, Sorensen, Stegner, Stennett, Sweet, Werk, Williams. Total - 34.

NAYS--None.

Absent and excused--Andreason. Total - 1.

Total - 35.

Whereupon the President declared **S 1030** passed, title was approved, and the bill ordered transmitted to the House.

S 1031 was read the third time at length, section by section, and placed before the Senate for final consideration. Senator Sweet arose as sponsor of the bill and opened the debate. The question being, "Shall the bill pass?"

Roll call resulted as follows:

AYES--Bailey, Brandt, Bunderson, Burkett, Burtenshaw, Calabretta, Cameron, Compton, Darrington, Davis, Gannon, Geddes, Goedde, Hill, Ingram, Kennedy, Keough, Little, Lodge, Malepeai, Marley, McKenzie, McWilliams, Noble, Noh, Pearce, Richardson, Schroeder, Sorensen, Stegner, Stennett, Sweet, Werk, Williams. Total - 34.

NAYS--None.

Absent and excused--Andreason. Total - 1.

Total - 35.

Whereupon the President declared **S 1031** passed, title was approved, and the bill ordered transmitted to the House.

On motion by Senator Davis, seconded by Senator Stennett, by voice vote the Senate recessed at 12:05 p.m. until the hour of 4:30 .m. of this day.

RECESS AFTERNOON SESSION

The Senate reconvened at 4:30 p.m., pursuant to recess, President Risch presiding.

Roll call showed all members present except Senator Andreason, absent and formally excused by the Chair; and Senators Burkett, Cameron, Compton, Gannon, McKenzie, McWilliams, and Stegner, absent and excused.

Prior to recess the Senate was at the Thirteenth Order of Business, Third Reading of Bills.

On request by Senator Davis, granted by unanimous consent, the Senate returned to the Fifth Order of Business.

Petitions, Resolutions, and Memorials

Senator Stegner was recorded present at this order of business.

SCR 104 BY LOCAL GOVERNMENT AND TAXATION COMMITTEE

A CONCURRENT RESOLUTION
STATING FINDINGS OF THE LEGISLATURE AND
AUTHORIZING THE LEGISLATIVE COUNCIL TO
APPOINT A COMMITTEE TO UNDERTAKE AND
COMPLETE A STUDY OF THE LOCAL PLANNING ACT
AND RELATED STATUTES.

Be It Resolved by the Legislature of the State of Idaho:

WHEREAS, the Local Planning Act contained in Chapter 65, Title 67, Idaho Code, was enacted in 1975 and contains a lengthy statement of legislative intent set forth in Section 67-6502, Idaho Code, for the Act's purpose; and

WHEREAS, the Local Planning Act has served Idaho's citizens well over the years while Idaho's population has grown rapidly and demands for governmental services have expanded exponentially; and

WHEREAS, other provisions of law including the three percent property tax cap for local governments contained in Section 63-802, Idaho Code, and development impact fees contained in Chapter 82, Title 67, Idaho Code, have impacts on the planning process and the providing of essential services to citizens; and

WHEREAS, because of the changes in demographics and population in Idaho, it is time to review the Local Planning Act and related laws to ensure their modernity, to ensure that the purpose mentioned in Section 67-6502, Idaho Code, is being achieved and to reflect relevance to today's Idaho population for infrastructure needs, natural resource protection, and for economic growth opportunities.

NOW, THEREFORE, BE IT RESOLVED by the members of the First Regular Session of the Fifty-seventh Idaho Legislature, the Senate and the House of Representatives concurring therein, that the Legislative Council is authorized to appoint a committee to undertake and complete a study of the Local Planning Act and related laws and suggest any modernization of the laws that may be needed. The Legislative Council shall determine the number of legislators and membership from each house appointed to the committee and shall authorize the committee to receive input, advice and assistance from interested and affected parties who are not members of the Legislature.

BE IT FURTHER RESOLVED that nonlegislative members of the committee may be appointed by the cochairs of the committee who are appointed by the Legislative Council. Nonlegislative members of the advisory committee shall not be reimbursed from legislative funds for per diem, mileage or other expenses and shall not have voting privileges regarding the committee's recommendations or proposed legislation.

BE IT FURTHER RESOLVED that the committee shall report its findings, recommendations and proposed legislation, if any, to the Second Regular Session of the Fifty-seventh Idaho Legislature.

SCR 104 was introduced, read at length, and referred to the Judiciary and Rules Committee for printing.

On request by Senator Davis, granted by unanimous consent, the Senate advanced to the Eleventh Order of Business.

**Introduction, First Reading, and Reference of Bills,
House Petitions, Resolutions, and Memorials**

S 1103

**BY EDUCATION COMMITTEE
AN ACT**

RELATING TO GENERAL FUND SURPLUS; AMENDING SECTION 57-814, IDAHO CODE, TO PROVIDE A FORMULA FOR TRANSFER OF MONEYS OF A GENERAL FUND SURPLUS OVER A CERTAIN AMOUNT TO THE BUDGET STABILIZATION FUND, THE IDAHO MILLENNIUM FUND AND THE PUBLIC SCHOOL HOLDBACK PROTECTION FUND; AMENDING SECTION 67-1801, IDAHO CODE, TO PROVIDE THAT THE IDAHO MILLENNIUM FUND MAY CONSIST OF MONEYS TRANSFERRED TO IT AS PROVIDED IN SECTION 57-814, IDAHO CODE; AND AMENDING CHAPTER 9, TITLE 33, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 33-907, IDAHO CODE, TO CREATE THE PUBLIC SCHOOL HOLDBACK PROTECTION FUND IN THE STATE TREASURY, TO PROVIDE SOURCES OF THE FUND AND THE PURPOSE FOR WHICH MONEYS IN THE FUND MAY BE UTILIZED AND TO DEFINE THE TERM "PUBLIC SCHOOLS."

S 1104

**BY EDUCATION COMMITTEE
AN ACT**

RELATING TO PUBLIC SCHOOL SUPPORT; AMENDING CHAPTER 10, TITLE 33, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 33-1018, IDAHO CODE, TO REQUIRE AN ADDITIONAL DISTRIBUTION TO SCHOOL DISTRICTS WHEN THE ACTUAL NUMBER OF STATE SUPPORT UNITS IS GREATER THAN THE ESTIMATED NUMBER STATED IN THE PUBLIC SCHOOL APPROPRIATION.

S 1105

**BY RESOURCES AND ENVIRONMENT COMMITTEE
AN ACT**

RELATING TO POWERS AND DUTIES OF THE DIRECTOR OF THE DEPARTMENT OF ENVIRONMENTAL QUALITY; AMENDING SECTION 39-105, IDAHO CODE, TO AUTHORIZE INCORPORATION OR ADOPTION OF POLLUTANT TRADING REQUIREMENTS.

S 1106

**BY RESOURCES AND ENVIRONMENT COMMITTEE
AN ACT**

RELATING TO THE IDAHO GEOLOGICAL SURVEY; AMENDING SECTION 47-201, IDAHO CODE, TO STRIKE THE TRANSFER OF RESPONSIBILITY FROM THE BUREAU OF MINES AND GEOLOGY TO THE GEOLOGICAL SURVEY, TO DELETE THE REQUIREMENT THAT THE DEAN OF THE COLLEGE OF MINES AND EARTH RESOURCES OF THE UNIVERSITY OF IDAHO BE DIRECTOR OF THE GEOLOGICAL SURVEY AND THE BOARD CHAIRPERSON AND TO REVISE MEMBERSHIP ON THE GEOLOGICAL SURVEY; AMENDING SECTION 47-202, IDAHO CODE, TO DELETE THE SPECIFIED DATE FOR THE ANNUAL MEETING OF THE ADVISORY BOARD, TO DELETE THE REQUIREMENT THAT THE OFFICE OF THE SURVEY'S SECRETARY BE MAINTAINED AT THE UNIVERSITY OF IDAHO, TO PROVIDE THAT THE DIRECTOR OF THE SURVEY SHALL REPORT TO THE PRESIDENT OF THE UNIVERSITY OF IDAHO THROUGH THE VICE PRESIDENT FOR RESEARCH AT THE UNIVERSITY OF IDAHO AND TO STRIKE UNNECESSARY VERBIAGE; AND AMENDING SECTION 47-203, IDAHO CODE, TO PROVIDE FOR THE PREPARATION AND PUBLICATION OF REPORTS ON HYDROGEOLOGY AND GEOLOGIC HAZARDS AND TO DELETE THE REQUIREMENT THAT THE STATE SURVEY MAINTAIN LABORATORY FACILITIES TO PERFORM NONCOMMERCIAL MINERAL AND CHEMICAL ANALYSES.

S 1107

**BY LOCAL GOVERNMENT AND TAXATION
COMMITTEE
AN ACT**

RELATING TO FIRE PROTECTION DISTRICTS; AMENDING SECTION 31-1415, IDAHO CODE, TO REVISE CORPORATE POWERS AND DUTIES OF THE BOARD OF FIRE PROTECTION COMMISSIONERS AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 31-1423, IDAHO CODE, TO REVISE PROCEDURES OF HOW FIRE PROTECTION DISTRICT FUNDS ARE HANDLED; AND AMENDING SECTION 31-1421, IDAHO CODE, TO PROVIDE DUTIES OF THE BOARD OF COUNTY COMMISSIONERS WHENEVER A VACANCY OCCURS ON THE BOARD OF COMMISSIONERS OF A FIRE PROTECTION DISTRICT.

S 1108

**BY LOCAL GOVERNMENT AND TAXATION
COMMITTEE
AN ACT**

RELATING TO COLLECTION OF PUBLIC DEBTS; AMENDING SECTION 20-607, IDAHO CODE, TO PROVIDE THAT REPRESENTATIVES OF COUNTIES MAY FILE CIVIL ACTIONS AND TO REVISE A TIME LIMITATION; AMENDING CHAPTER 23, TITLE 67, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 67-2358, IDAHO

CODE, TO PROVIDE THAT PUBLIC AGENCIES MAY RETAIN COLLECTION AGENCIES TO COLLECT PUBLIC DEBTS, TO PROVIDE FOR COLLECTION FEES, TO REQUIRE NOTICE TO DEBTORS, TO LIMIT REMEDIES AND POWERS OF COLLECTION AGENCIES AND TO CLARIFY THE TERM "DEBT"; AND DECLARING AN EMERGENCY.

S 1109
BY JUDICIARY AND RULES COMMITTEE
AN ACT

RELATING TO RECREATIONAL TRESPASS AND LIMITATION OF LANDOWNER LIABILITY; AMENDING SECTION 36-1604, IDAHO CODE, TO DEFINE THE TERM "CHARGE" AND TO MAKE A TECHNICAL CORRECTION.

S 1003, S 1004, S 1005, S 1006, S 1007, S 1008, and S 1009 were introduced, read the first time at length, and referred to the Judiciary and Rules Committee for printing.

On request by Senator Davis, granted by unanimous consent, the Senate advanced to the Fifteenth Order of Business.

Miscellaneous Business

On motion by Senator Davis, seconded by Senator Stennett, by voice vote the Senate adjourned at 4:45 p.m. until the hour of 11 a.m., Tuesday, February 11, 2003.

JAMES E. RISCH, President

Attest: JEANNINE WOOD, Secretary